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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,074	09/08/2003	Jeffery C. Argentine	021630-004900US	1431
20350	7590	03/07/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			SOOHOO, TONY GLEN	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/658,074		ARGENTINE, JEFFERY C.	
	Examiner		Art Unit	
	Tony G. Soohoo		1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "the manifold" in claim 1. There is insufficient antecedent basis for this limitation in the claim. Further evidence is pointed out that claim 13 introduces "a manifold", and examination of claim 1 does not include a positive consideration of a manifold.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 12, and 14, 15-25, 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Todd et al 3035820.

With regards to claims to the broad claims 15-25, Todd is readable upon the claims as follows: The reference shows a base 10, syringes 20 with a piston, a 1st and 2nd linkages 19, 19, whereby material is moved between the syringes between a tube 36. With regards to claims 18-19; or alternately 20-21, note that the one may define the element 15 as a rocker bar with is pivotally coupled to the a rocker coupler joint 18 as being the 1st or 2nd element if so desired in reference to operating the 1st or 2nd linkages.

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Note that the claims 18-19 or alternately 20-21 does not claim two separate rockers and joints simultaneously as the invention.

With regards to claims 1-3, 12, and 14; and independent claim 27, the Todd reference is readable upon the claim as follows: shows a base 10, a 1st linkage having two bars 19, and 14 having at least one joint shown by the screw joint holding 19 to 14, a 2nd linkage having two bars 19 and 11 and a screw joint between 19 and 11 to hold the bars together, and a 1st and 2nd syringe 20, 20.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-11 and 14, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Todd et al 3035820.

With regards to the Todd et al reference the Todd reference discloses the following elements which as interpreted below is readable upon the claimed invention with the exception that there is a single rocker bar and rocker coupler joint.

Todd shows a 1st linkage with a bar 19, and a rocker bar 15, 39 connected by a common coupler bar 18 pivotally connected to the base 10 at a rocker coupler joint at 18

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on the element 17. Todd also shows a 2nd linkage with a respective bar 19 which is connected to the common coupler bar 18 and rocker coupler 15.

In the interpretation of the elements of the Todd reference above discloses all of the recited subject matter as defined within the scope of the claims with the exception of having a separate rocker bar and rocker coupler for each of the linkages connected to each respective syringe.

It is a finding of fact that Todd positively show teaching of a coupling joint and rocking bar to operate the motion of a linkage to a syringe. However difference between the claimed invention and that of elements shown by the Todd reference is that there is a respective rocker and rocker coupler for each syringe. It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate a rocker and rocker coupler and connect to each of the syringe so that one may more precisely control the amount of each feed of material from each respective syringe, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

With regards to claim 28, the Todd reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of instructions for use of the apparatus. The provision of an instruction sheet is notoriously old and well known as a manner to teach the user in how to use the device properly. It is deemed that it would have been obvious to one of ordinary skill in the art to provide for a Todd reference with an instruction sheet so that a user may better perform the intended operation of the device so that the user may be unharmed or at least warned with

regards to a possible injury due to an improper use of the device which would result in unwanted medical costs to the user.

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Todd et al 3035820 in view of Bannister 2056931.

With regards to claim 26, the Todd reference is readable upon the claim as follows: shows a base 10, a 1st linkage having two bars 19, and 14 having at least one joint shown by the screw joint holding 19 to 14, a 2nd linkage having two bars 19 and 11 and a screw joint between 19 and 11 to hold the bars together, and a 1st and 2nd syringe 20, 20. The Todd reference as described above discloses all of the recited subject matter as defined within the scope of the claims with the exception of having a plurality of feet support the base.

It is old and well known in the art of devices having a base support to add feet to a device in order to stabilize the base. The use of feet as a support element is notoriously common, for example, in common furnishings, and office equipment, the use of feet upon the bottom of the device is old. Nonetheless, one example of rubber feet 2 used upon a base 1 is shown by Bannister so that the base may rest upon a table. Accordingly, it is deemed that it would have been obvious to one of ordinary skill in the art to provide feet to the base of the device so that the device is better supported upon a table.

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7. Claim 13 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Todd et al 3035820 in view of Cereghini 4350650.

With regards to claim 13, the Todd reference discloses the recited claimed elements as interpreted above however does not show the conduit between the syringes being a manifold.

The reference to Cereghini discloses a device and method of mixing whereby two pistons 22, 23 are connected by a manifold 24 with inlets 15, 16, and discharge outlet 28 and passageway 24 with branches 26, 27 whereby mixing is achieved by moving the flow across into and out of chambers 20, 21.

In view of the teaching by Cereghini that one may place a multi-port connection channel or manifold between two reciprocating pistons for mixing and to provide a convenient manner to charge and discharge the material from the syringes, it is deemed that it would have been obvious to one of ordinary skill in the art to modify the conduit 30 between the syringes of the Todd (et al) reference so that there is a convenient manner to charge and discharge the mixed material.

Conclusion

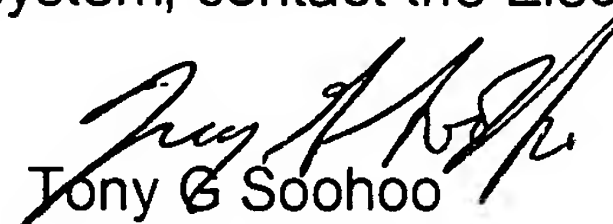
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lake 6062772, Chu 5540498, Wigglesworth et al 4876038, Greener 2030251, Schwimmer 1956082, Richards et al 1898894, Fish 1694589, Colony 1550882, Farrar 950069, Gaulin 7560953, Mitchell et al 5823671, Edwards et al 6592251, Blakemore 314163, Ping 357027, Hensrud 1264071, Anderson 127290, Phegley 492945, Hervey 49345, Nielsen 1288966 .

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7:00 AM - 5:00 PM, Tues. - Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tony G Soohoo
Primary Examiner
Art Unit 1723
